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*Attorneys for Plaintiff Corizon Health, Inc.,  
Dr. Carl Keldie, Dr. Justin Montoya,  
Vicki Thomas, Kirstin White, Jacob Pleich,  
and Sharon Epperson*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

DEREK JOHNSON, personal representative  
of KELLY CONRAD GREEN II, deceased;  
KELLY CONRAD GREEN and SANDY  
PULVER,

Plaintiffs,

v.

CORIZON HEALTH, INC., a Tennessee  
corporation; LANE COUNTY, an Oregon  
county; DR. CARL KELDIE, an individual; DR.  
JUSTIN MONTOYA, an individual; VICKI  
THOMAS, an individual; KIRSTIN WHITE, an  
individual; SHARON EPPERSON, (née  
FAGAN), an individual; and JACOB PLEICH,  
an individual,

Defendants.

Case No. 6:13-cv-01855-TC

**MOTION FOR SUMMARY JUDGMENT  
BY DEFENDANTS CORIZON HEALTH,  
INC., DR. CARL KELDIE, DR. JUSTIN  
MONTOYA, VICKI THOMAS, KIRSTIN  
WHITE, JACOB PLEICH, AND  
SHARON EPPERSON**

Oral Argument Requested

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT -

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1238.038-01146451; 1

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### **CERTIFICATE OF COMPLIANCE WITH LR 7-1**

Pursuant to Local Rule 7-1(a)(1)(A), Defendants Corizon Health Inc., Dr. Carl Keldie, Dr. Justin Montoya, Vicki Thomas, Kirstin White, Sharon Epperson, and Jacob Pleich (the “Corizon Defendants”) have made good faith efforts through personal conferences to resolve the disputes addressed in this motion and have been unable to do so.

### **QUESTIONS PRESENTED**

1. Under 42 U.S.C. § 1983, an entity acting under “color of state law,” such as Corizon, can be liable only where its own policy, practice, or custom causes serious medical harm to a pre-trial detainee. When the now-deceased Mr. Green was arrested, Corizon was never contacted to perform a mental health screening per the County’s policy. Is Corizon liable for injuries that Mr. Green inflicted on himself prior to any examination by a Corizon employee?
2. Under Oregon state law, a medical professional cannot be medically negligent for a person’s injuries when there was no physician-patient relationship. Here, no Corizon employee was ever told at any time prior to Mr. Green injuring himself that Mr. Green was in the jail. Can Corizon be liable for Mr. Green’s injuries?
3. Under 42 U.S.C. § 1983, a medical provider can be liable for an improper diagnosis only where that provider subjectively knew that the diagnosis was improper and acted on that subjective belief anyway. Corizon’s medical providers provided treatment in a timely manner consistent with a diagnosis of severe head lacerations and arranged for prompt transport to a nearby hospital for further evaluation. Can Corizon’s medical providers be liable for being deliberately indifferent to Mr. Green’s injuries?
4. Under 42 U.S.C. § 1983, medical jail supervisors can be liable where there is a pattern of medical providers providing reckless treatments or there is no training and no credentialing of those providers. Corizon has a robust training program in place, hires only credentialed individuals, and has no pattern of its employees being found “deliberately indifferent” to the medical needs of detainees. Can Corizon’s supervisors be liable for how Corizon medical staff responded to Mr. Green’s self-inflicted injuries?

## MOTION

Pursuant to FRCP 56, the Corizon Defendants move for summary judgment in their favor on the following claims made by Plaintiffs in the above-referenced matter:

- Dismissal of the entire First Claim for Relief of Plaintiffs' Second Amended Complaint ("SAC") (SAC ¶¶ 32-38 3(a)-(g)).
- Dismissal of the entire Second Claim for Relief of the SAC (SAC ¶¶ 39-43).
- Dismissal of the entire Third Claim for Relief of the SAC (SAC ¶¶ 44-49).
- Dismissal of the following paragraphs of Plaintiffs' Fourth Claim for Relief of the SAC: ¶ 52 (a)-(b), (k)-(m).
- Dismissal of the following paragraphs of Plaintiffs' Fifth Claim for Relief of the SAC: ¶ 57 (a)-(b), (m)-(o).
- Dismissal of all of the Alternative Claims for Relief to the extent they mirror the foregoing allegations Corizon Defendants seek dismissal of (SAC ¶¶ 60 – 73).

In support of this motion, Corizon Defendants rely on the Memorandum of Law in Support of Motion for Summary Judgment, the Declaration of Vicki Thomas, the [Filed under Seal] Declaration of James M. Daigle, the non-sealed Declaration of James M. Daigle, and the exhibits attached thereto, which are all filed herewith.

DATED this 20th day of January, 2015.

STEWART SOKOL & LARKIN LLC

By: /s/ James M. Daigle

James M. Daigle, OSB #942843  
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Attorneys for Plaintiff Corizon Health, Inc.,  
Dr. Carl Keldie, Dr. Justin Montoya, Vicki  
Thomas, Kirstin White, Jacob Pleich, and  
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DEFENDANTS' MOTION FOR SUMMARY JUDGMENT -  
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## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **MOTION FOR SUMMARY**

### **JUDGMENT BY CORIZON DEFENDANTS** on:

Elden M. Rosenthal  
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by the following indicated method or methods:

☒ by **E-filing** a full, true and correct copy thereof to the attorney, as shown above, at the electronic mail address reflected on the court's CM/ECF system, on the date set forth below.

DATED this 20th day of January, 2015.

STEWART SOKOL & LARKIN LLC

By: /s/ James M. Daigle  
James M. Daigle, OSB #942843  
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CERTIFICATE OF SERVICE - 1

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